

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF TEXAS

No. 6:20-cv-00507

**Zafres Lamonn McDonald,**  
*Plaintiff,*  
v.  
**Maxey Cerliano et al.,**  
*Defendants.*

**ORDER**

Plaintiff Zafres Lamonn McDonald initiated this action against defendants Sheriff Maxey Cerliano, Lt. Luke Whitehead, Chief Jeff Callaway, Lt. Gary Robinson, Ben Reynolds, Steven Stadt and B. Ernest, alleging a violation of his 8th Amendment right against cruel and unusual punishment and a due process violation regarding denial of grievances. Doc. 7. On May 27, 2021, defendants Maxey Cerliano, Jeff Callaway, Luke Whitehead, Ben Reynolds, and Gary Robinson filed a motion to dismiss all asserted claims for failure to state a claim upon which relief can be granted pursuant to Federal Rule of Civil Procedure 12(b)(6). Doc. 18.

On September 14, 2021, Judge Love issued a report and recommendation, recommending that defendants' motion be granted and the claims be dismissed with prejudice. Doc. 22.

No objections were filed to the report and recommendation. The court therefore reviews the magistrate judge's findings for clear error or abuse of discretion and reviews his legal conclusions to determine whether they are contrary to law. *See United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir. 1989), cert. denied, 492 U.S. 918 (1989) (holding that, if no objections to a magistrate judge's report are filed, the standard of review is "clearly erroneous, abuse of discretion and contrary to law").

Having reviewed the magistrate judge's report, and being satisfied that it contains no clear error, the court accepts its findings and recommendation. Defendants' motion (Doc. 18) is granted, and the claims against Defendants Cerliano, Callaway, Whitehead,

Reynolds, and Robinson are dismissed with prejudice. The claims against Defendants Stadt and Ernest remain pending.

*So ordered by the court on October 21, 2021.*

A handwritten signature in black ink, appearing to read "J. Campbell Barker", is written over a horizontal line.

J. CAMPBELL BARKER  
United States District Judge